

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2716

Introduced by Assembly Member Ma

February 22, 2008

An act to amend Sections 226, 233, and 234 of, and to add Article 1.5 (commencing with Section 245) to Chapter 1 of Part 1 of Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2716, as amended, Ma. Employment: paid sick leave.

Existing law authorizes employers to provide their employees paid sick leave.

This bill would provide that an employee who works in California for 7 or more days in a calendar year is entitled to paid sick ~~time~~ *days*, which shall be accrued at a rate of no less than one hour of paid sick ~~time~~ for every 30 hours worked. An employee would be entitled to use accrued sick ~~time~~ *days* beginning on the 90th calendar day of employment. The bill would require employers to provide paid sick ~~time~~ *days*, upon the request of the employee, for diagnosis, care, or treatment of health conditions of the employee or an employee's family member, or for leave related to domestic violence or sexual assault. An employer would be prohibited from discriminating or retaliating against an employee who requests paid sick ~~time~~ *days*. The bill would require employers to satisfy specified posting and notice, and recordkeeping requirements. The bill would also make conforming changes.

This bill would require the Department of Industrial Relations to administer and enforce these requirements, including the promulgation of regulations, investigation, mitigation, and relief of violations of these

requirements. This bill would authorize the department to impose specified administrative fines for violations and would authorize *an aggrieved person*, the department, the Attorney General, or ~~a person or entity acting on behalf of the public~~ *an entity a member of which is aggrieved* to bring an action to recover specified civil penalties against an offender, as well as attorney's fees, costs, and interest.

The bill would specify that it does not apply to employees covered by a collective bargaining agreement that provides for paid sick-leave days, nor does it lessen any other obligations of the employer to employees. *This bill would further specify that it does not apply to employees in the construction industry covered by a collective bargaining agreement if the agreement expressly waives the requirements of this article in clear and unambiguous terms.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) Nearly every worker in the State of California will at some
- 3 time during the year need some time off from work to take care
- 4 of his or her own health or the health of family members.
- 5 (b) Many workers in California do not have any paid sick days,
- 6 or have an inadequate number of paid sick days, to care for their
- 7 own health or the health of family members.
- 8 (c) Low-income workers are significantly less likely to have
- 9 paid sick time than other workers.
- 10 (d) Providing workers time off to attend to their own health care
- 11 and the health care of family members will ensure a healthier and
- 12 more productive workforce in California.
- 13 (e) Paid sick days will have an enormously positive impact on
- 14 the public health of Californians by allowing sick workers paid
- 15 time off to care for themselves when ill, thus lessening their
- 16 recovery time and reducing the likelihood of spreading illness to
- 17 other members of the workforce.
- 18 (f) Paid sick days will allow parents to provide personal care
- 19 for their sick children. Parental care ensures children's speedy
- 20 recovery, prevents more serious illnesses, and improves children's
- 21 overall mental and physical health.

1 (g) Providing paid sick days is affordable for employers and
2 good for business.

3 (h) Employers who provide paid sick days enjoy greater
4 employee retention and reduce the likelihood of ~~employees'~~
5 *employees* coming to work sick. Studies have shown that costs of
6 decreased productivity caused by sick workers exceed the ~~cost~~
7 *costs* of employee absenteeism.

8 (i) Many adults have significant elder care responsibilities
9 requiring them to take time off from work or to work reduced
10 hours.

11 (j) Employees frequently lose their jobs or are disciplined for
12 taking sick days to care for sick family members or to recover
13 from their own illnesses.

14 (k) Workers whose jobs involve significant contact with the
15 public, such as service workers and restaurant workers, are very
16 unlikely to have paid sick days. Often, these workers have no
17 choice but to come to work when they are ill, thereby spreading
18 illness to coworkers and customers.

19 (~~l~~) Domestic violence, ~~sexual assault, and stalking~~ *and sexual*
20 *assault* affect many persons without regard to age, race, national
21 origin, sexual orientation, or socioeconomic status.

22 (m) Domestic violence is a crime that has a devastating effect
23 on families, communities, and the workplace. It impacts
24 productivity, effectiveness, absenteeism, and employee turnover
25 in the workplace. The National Crime Survey estimates that
26 175,000 days of work each year are missed due to domestic
27 violence.

28 (n) Survivors of domestic violence, ~~sexual assault, and stalking~~
29 *and sexual assault* may be vulnerable at work when trying to end
30 an abusive relationship because the workplace may be the only
31 place where the perpetrator knows to contact the victim. Studies
32 show that up to one-half of domestic violence victims experience
33 job loss. Forty percent reported on-the-job harassment. Nearly 50
34 percent of sexual assault survivors lose their jobs or are forced to
35 quit in the aftermath of the assaults.

36 (o) Affording survivors of domestic violence, ~~sexual assault,~~
37 ~~and stalking~~ *and sexual assault* paid sick days is vital to their
38 independence and recovery.

39 SEC. 2. In enacting this act, it is the intent of the Legislature
40 to do the following:

1 (a) Ensure that workers in California can address their own
2 health needs and the health needs of their families by requiring
3 employers to provide a minimum level of paid sick days including
4 time for family care.

5 (b) Decrease public and private health care costs in California
6 by enabling workers to seek early and routine medical care for
7 themselves and their family members and to address domestic
8 violence or sexual assault.

9 (c) Protect employees in California from losing their jobs while
10 they use sick days to care for themselves or their families.

11 (d) Provide economic security to employees in California who
12 take time off work for reasons related to domestic violence or
13 sexual assault.

14 (e) Safeguard the welfare, health, safety, and prosperity of the
15 people of and visitors to California.

16 SEC. 3. Section 226 of the Labor Code is amended to read:

17 226. (a) An employer shall, semimonthly or at the time of each
18 payment of wages, furnish to each employee, either as a detachable
19 part of the check, draft, or voucher paying the employee's wages,
20 or separately if wages are paid by personal check or cash, an
21 accurate itemized statement in writing showing (1) gross wages
22 earned, (2) total hours worked by the employee, unless the
23 employee's compensation is solely based on a salary and the
24 employee is exempt from payment of overtime under subdivision
25 (a) of Section 515 or any applicable order of the Industrial Welfare
26 Commission, (3) the number of piece-rate units earned and any
27 applicable piece rate if the employee is paid on a piece-rate basis,
28 (4) all deductions, provided that all deductions made on written
29 orders of the employee may be aggregated and shown as one item,
30 (5) net wages earned, (6) the inclusive dates of the period for which
31 the employee is paid, (7) the name of the employee and his or her
32 social security number, except that by January 1, 2008, only the
33 last four digits of his or her social security number or an employee
34 identification number other than a social security number may be
35 shown on the itemized statement, (8) the name and address of the
36 legal entity that is the employer, (9) paid sick leave accrued and
37 used pursuant to Article 1.5 (commencing with Section 245), and
38 (10) all applicable hourly rates in effect during the pay period and
39 the corresponding number of hours worked at each hourly rate by
40 the employee. The deductions made from payments of wages shall

1 be recorded in ink or other indelible form, properly dated, showing
2 the month, day, and year, and a copy of the statement or a record
3 of the deductions shall be kept on file by the employer for at least
4 three years at the place of employment or at a central location
5 within the State of California.

6 (b) An employer that is required by this code or any regulation
7 adopted pursuant to this code to keep the information required by
8 subdivision (a) shall afford current and former employees the right
9 to inspect or copy the records pertaining to that current or former
10 employee, upon reasonable request to the employer. The employer
11 may take reasonable steps to assure the identity of a current or
12 former employee. If the employer provides copies of the records,
13 the actual cost of reproduction may be charged to the current or
14 former employee.

15 (c) An employer who receives a written or oral request to inspect
16 or copy records pursuant to subdivision (b) pertaining to a current
17 or former employee shall comply with the request as soon as
18 practicable, but no later than 21 calendar days from the date of the
19 request. A violation of this subdivision is an infraction.
20 Impossibility of performance, not caused by or a result of a
21 violation of law, shall be an affirmative defense for an employer
22 in any action alleging a violation of this subdivision. An employer
23 may designate the person to whom a request under this subdivision
24 should be made.

25 (d) This section does not apply to any employer of any person
26 employed by the owner or occupant of a residential dwelling whose
27 duties are incidental to the ownership, maintenance, or use of the
28 dwelling, including the care and supervision of children, or whose
29 duties are personal and not in the course of the trade, business,
30 profession, or occupation of the owner or occupant.

31 (e) An employee suffering injury as a result of a knowing and
32 intentional failure by an employer to comply with subdivision (a)
33 is entitled to recover the greater of all actual damages or fifty
34 dollars (\$50) for the initial pay period in which a violation occurs
35 and one hundred dollars (\$100) per employee for each violation
36 in a subsequent pay period, not exceeding an aggregate penalty of
37 four thousand dollars (\$4,000), and is entitled to an award of costs
38 and reasonable attorney's fees.

39 (f) A failure by an employer to permit a current or former
40 employee to inspect or copy records within the time set forth in

1 subdivision (c) entitles the current or former employee or the Labor
2 Commissioner to recover a seven-hundred-fifty-dollar (\$750)
3 penalty from the employer.

4 (g) An employee may also bring an action for injunctive relief
5 to ensure compliance with this section, and is entitled to an award
6 of costs and reasonable attorney's fees.

7 (h) This section does not apply to the state, to any city, county,
8 city and county, district, or to any other governmental entity, except
9 that if the state or a city, county, city and county, district, or other
10 governmental entity furnishes its employees with a check, draft,
11 or voucher paying the employee's wages, the state or a city, county,
12 city and county, district, or other governmental entity shall, by
13 January 1, 2008, use no more than the last four digits of the
14 employee's social security number or shall use an employee
15 identification number other than the social security number on the
16 itemized statement provided with the check, draft, or voucher.

17 SEC. 4. Section 233 of the Labor Code is amended to read:

18 233. (a) Any employer who provides sick leave for employees
19 shall permit an employee to use in any calendar year the
20 employee's accrued and available sick leave entitlement, in an
21 amount not less than the sick leave that would be accrued during
22 six months at the employee's then-current rate of entitlement, to
23 attend to an illness of a child, parent, spouse, or domestic partner
24 of the employee. All conditions and restrictions placed by the
25 employer upon the use by an employee of sick leave also shall
26 apply to the use by an employee of sick leave to attend to an illness
27 of his or her child, parent, spouse, or domestic partner. This section
28 does not extend the maximum period of leave to which an
29 employee is entitled under Article 1.5 (commencing with Section
30 245) of this chapter, Section 12945.2 of the Government Code, or
31 the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec.
32 2606 et seq.), regardless of whether the employee receives sick
33 leave compensation during that leave.

34 (b) As used in this section:

35 (1) "Child" means a biological, foster, or adopted child, a
36 stepchild, a legal ward, a child of a domestic partner, or a child of
37 a person standing in loco parentis.

38 (2) "Employer" means a person employing another under an
39 appointment or contract of hire and includes the state, political
40 subdivisions of the state, and municipalities.

1 (3) “Parent” means a biological, foster, or adoptive parent, a
2 stepparent, or a legal guardian.

3 (4) (A) “Sick leave” means accrued increments of compensated
4 leave provided by an employer to an employee as a benefit of the
5 employment for use by the employee during an absence from the
6 employment for any of the following reasons:

7 (i) The employee is physically or mentally unable to perform
8 his or her duties due to illness, injury, or a medical condition of
9 the employee.

10 (ii) The absence is for the purpose of obtaining professional
11 diagnosis or treatment for a medical condition of the employee.

12 (iii) The absence is for other medical reasons of the employee,
13 such as pregnancy or obtaining a physical examination.

14 (B) “Sick leave” includes paid sick-leave *days* as defined in
15 Section 245.5.

16 (C) “Sick leave” does not include any benefit provided under
17 an employee welfare benefit plan subject to the federal Employee
18 Retirement Income Security Act of 1974 (P.L. 93-406, as amended)
19 and does not include any insurance benefit, workers’ compensation
20 benefit, unemployment compensation disability benefit, or benefit
21 not payable from the employer’s general assets.

22 (c) An employer shall not deny an employee the right to use
23 sick leave or discharge, threaten to discharge, demote, suspend,
24 or in any manner discriminate against an employee for using, or
25 attempting to exercise the right to use, sick leave to attend to an
26 illness of a child, parent, spouse, or domestic partner of the
27 employee.

28 (d) Any employee aggrieved by a violation of this section shall
29 be entitled to reinstatement and actual damages or one day’s pay,
30 whichever is greater, and to appropriate equitable relief.

31 (e) Upon the filing of a complaint by an employee, the Labor
32 Commissioner shall enforce the provisions of this section in
33 accordance with the provisions of Chapter 4 (commencing with
34 Section 79) of Division 1, including, but not limited to, Sections
35 92, 96.7, 98, and 98.1 to 98.8, inclusive. Alternatively, an employee
36 may bring a civil action for the remedies provided by this section
37 in a court of competent jurisdiction. If the employee prevails, the
38 court may award reasonable attorney’s fees.

(f) The rights and remedies specified in this section are cumulative and nonexclusive and are in addition to any other rights or remedies afforded by contract or under other provisions of law.

SEC. 5. Section 234 of the Labor Code is amended to read:

234. An employer absence control policy that counts sick leave taken pursuant to Section 233 or Article 1.5 (commencing with Section 245) as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

SEC. 6. Article 1.5 (commencing with Section 245) is added to Chapter 1 of Part 1 of Division 2 of the Labor Code, to read:

Article 1.5. Paid Sick ~~Leave~~ Days

245. This article shall be known and may be cited as the Healthy Families, Healthy Workplaces Act of 2008.

245.5. For the purposes of this article, the following terms have the following meanings:

(a) "Department" means the Department of Industrial Relations.

(b) "Family member" means any of the following:

(1) A biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(8) A designated person for whom the employee may use paid sick ~~leave~~ days to provide care. For the purposes of this paragraph, an employer shall allow each employee who has no spouse or registered domestic partner to designate a person for whom he or she may use paid sick ~~leave~~ days to provide care *in addition to the family members listed in paragraphs (1), (2), (5), (6), and (7)*. The employer shall provide the opportunity to make this designation no later than the date on which the employee has worked 30 hours

1 after paid sick ~~leave~~ *has days have* begun to accrue. There shall
2 be a 10-day period during which the employee may make this
3 designation. Thereafter, the employer shall annually provide the
4 employee a 10-day period within which to make this designation
5 or change a prior designation. *If an employer fails to provide an*
6 *opportunity to make a designation, the employer shall permit an*
7 *employee without a spouse or registered partner to use paid sick*
8 *days to care for a person other than a family member listed in*
9 *paragraph (1), (2), (5), (6), or (7). That person shall become the*
10 *employee's designated person and shall remain so designated until*
11 *the next opportunity for the employee to change his or her*
12 *designation.*

13 (c) "Small business" means an employer who employs 10 or
14 fewer employees during 20 or more calendar workweeks in the
15 current or preceding calendar year.

16 (d) "Health care provider" has the same meaning as defined in
17 paragraph (6) of subdivision (c) of Section 12945.2 of the
18 Government Code.

19 (e) "Paid sick ~~time~~ *days*" means time that is compensated at the
20 same wage as the employee normally earns during regular work
21 hours and is provided by an employer to an employee for the
22 purposes described in Section 246.5.

23 246. (a) An employee who works in California for seven or
24 more days in a calendar year is entitled to paid sick time as
25 specified in this section.

26 (b) (1) An employee shall accrue *paid sick days at the rate of*
27 *no less than one hour of paid sick time* for every 30 hours worked,
28 beginning at the commencement of employment or the operative
29 date of this article, whichever is first.

30 (2) An employee who is exempt from overtime requirements
31 as an administrative, executive, or professional employee under
32 any Wage Order of the Industrial Welfare Commission is deemed
33 to work 40 hours per workweek for the purposes of this section,
34 unless the employee's normal workweek is less than 40 hours, in
35 which case the employee will accrue paid sick ~~leave~~ *days* based
36 upon that normal workweek.

37 (c) An employee shall be entitled to use accrued paid sick ~~time~~
38 *days* beginning on the 90th calendar day of employment, after
39 which the employee may use paid sick ~~time as it is~~ *days as they*
40 *are* accrued.

(d) Paid sick-time ~~days~~ shall be carried over to the following calendar year. However, an employer may limit an employee's use of paid sick-time ~~days~~ as follows:

(1) A small business employer may limit an employee's use to 40 hours or five days in each calendar year.

(2) All other employers may limit an employee's use to 72 hours or nine days in each calendar year.

(e) An employer is not required to provide additional paid sick days pursuant to this section if the employer has a paid leave policy and the employer makes available an amount of leave that satisfies the accrual requirements of this section and that may be used for the same purposes and under the same conditions as specified in this section.

(f) (1) Except as specified in paragraph (2), an employer shall not be required to provide compensation to an employee for accrued, unused paid sick-leave ~~days~~ upon termination, resignation, retirement, or other separation from employment.

(2) If an employee separates from and is rehired by the same employer within one year, any previously accrued, unused paid sick-leave ~~days~~ shall be reinstated. The employee shall be entitled to use ~~that accrued sick leave and to accrue additional sick time~~ *those accrued sick days and to accrue additional sick days* upon rehiring.

(g) An employer may lend paid sick-leave ~~days~~ to an employee in advance of accrual, at the employer's discretion and with proper documentation.

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick-leave ~~days~~ for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

~~(2) Leave related to domestic violence or sexual assault, as described in Sections 230 and 230.1.~~

(2) For an employee who is a victim of domestic violence or sexual assault, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1, regardless of how many employees are employed by the employee's employer.

(b) An employer shall not require as a condition of taking paid sick-leave ~~days~~ that the employee search for or find a replacement

1 worker to cover the days during which the employee is on paid
2 sick-leave days.

3 ~~(e) For purposes of subdivision (e) of Section 233, there shall~~
4 ~~be a rebuttable presumption of unlawful retaliation if an employer~~
5 ~~takes adverse action against an employee within 90 days of any~~
6 ~~of the following:~~

7 *(c) (1) An employer shall not deny an employee the right to use*
8 *sick days, discharge, threaten to discharge, demote, suspend, or*
9 *in any manner discriminate against an employee for using sick*
10 *days, attempting to exercise the right to use sick days, filing a*
11 *complaint with the department or in a court alleging a violation*
12 *of this article, cooperating in an investigation or prosecution of*
13 *an alleged violation of this article, or opposing any policy or*
14 *practice or act that is prohibited by this article.*

15 *(2) There shall be a rebuttable presumption of unlawful*
16 *retaliation if an employer denies an employee the right to use sick*
17 *days, discharges, threatens to discharge, demotes, suspends, or*
18 *in any manner discriminates against an employee within 90 days*
19 *of any of the following:*

20 ~~(1)~~
21 *(A) The employee files a complaint with the department or in*
22 *a court alleging a violation of this article.*

23 ~~(2)~~
24 *(B) The employee cooperates with an investigation or*
25 *prosecution of any alleged violation of this article.*

26 ~~(3)~~
27 *(C) The employee opposes any policy, practice, or act that is*
28 *prohibited by this article.*

29 247. (a) An employer shall give each employee written notice
30 of the requirements of this article in English, Spanish, ~~Mandarin~~
31 *Chinese*, and any other language spoken by at least 5 percent of
32 the employees. The written notice must state the following:

33 (1) That employees are entitled to accrue, request, and use paid
34 sick-time days.

35 (2) The amount of paid sick-time days provided for by this
36 article.

37 (3) The terms of use of paid sick-time days.

38 (4) That retaliation or discrimination against an employee who
39 requests-and uses paid-sick-time paid sick days or uses paid sick
40 days, or both is prohibited and that an employee has the right under

1 this article to file a complaint or bring a civil action against an
2 employer who retaliates or discriminates against the employee.

3 (b) In each workplace, the employer shall display a poster in a
4 conspicuous place containing all the information specified in
5 subdivision (a). The department shall create these posters and make
6 them available to employers.

7 (c) An employer who willfully violates the notice and posting
8 requirements of this section shall be subject to a civil fine of not
9 more than one hundred dollars (\$100) for each offense.

10 247.5. Employers shall keep for five years records documenting
11 hours worked and paid sick-leave *days* accrued and used by
12 employees. Employers shall allow the department access to these
13 records with appropriate notice and at a mutually agreeable time
14 to monitor compliance with this article. Employers shall make
15 these records available to employees pursuant to Section 226. If
16 an employer does not maintain adequate records pursuant to this
17 section, it shall be presumed that the employee is entitled to the
18 maximum number of hours accruable under this article, unless the
19 employer can show otherwise by clear and convincing evidence.

20 248. The department is authorized and directed to coordinate
21 implementation and enforcement of this article and to promulgate
22 guidelines and regulations for those purposes.

23 248.5. (a) The department is authorized and directed to enforce
24 this article, including investigating an alleged violation, and
25 ordering appropriate temporary relief to mitigate the violation or
26 to maintain the status quo pending the completion of a full
27 investigation or hearing.

28 (b) If the department, after a hearing that affords due process,
29 determines that a violation has occurred, it may order any
30 appropriate relief, including reinstatement, back pay, the payment
31 of sick-leave *days* unlawfully withheld, and the payment of an
32 additional sum as an administrative penalty to each employee or
33 person whose rights under this article were violated. If paid sick
34 leave ~~was~~ *days were* unlawfully withheld, the dollar amount of
35 paid sick-leave *days* withheld from the employee multiplied by
36 three, or two hundred fifty dollars (\$250), whichever amount is
37 greater, shall be included in the administrative penalty paid to the
38 employee. In addition, if a violation of this article results in other
39 harm to the employee or another person, such as discharge from
40 employment, or otherwise results in a violation of the rights of an

1 employee or another person, the administrative penalty shall
2 include fifty dollars (\$50) to each employee or person whose rights
3 under this article were violated for each day or portion thereof that
4 the violation occurred or continued.

5 (c) Where prompt compliance by an employer is not
6 forthcoming, the department may take any appropriate enforcement
7 action to secure compliance, including filing a civil action. In
8 compensation to the state for the costs of investigating and
9 remedying the violation, the department may order the violating
10 employer or person to pay to the state a sum of not more than fifty
11 dollars (\$50) for each day or portion of a day a violation occurs
12 or continues for each employee or person as to whom the violation
13 applies. These funds shall be allocated to the department to offset
14 the costs of implementing and enforcing this article.

15 (d) An employee or other person may report to the department
16 a suspected violation of this article. The department shall encourage
17 reporting pursuant to this subdivision by keeping confidential, to
18 the maximum extent permitted by applicable laws, the name and
19 other identifying information of the employee or person reporting
20 the violation. However, the department may disclose that person's
21 name and identifying information as necessary to enforce this
22 article or for other appropriate purposes, upon the authorization
23 of that person.

24 (e) The department, the Attorney General, a person aggrieved
25 by a violation of this article, *or* an entity a member of which is
26 aggrieved by a violation of this article, ~~or another person or entity~~
27 ~~acting on behalf of the public as provided for under applicable~~
28 ~~state law~~, may bring a civil action in a court of competent
29 jurisdiction against the employer or other person violating this
30 article and, upon prevailing, shall be entitled to such legal or
31 equitable relief as may be appropriate to remedy the violation,
32 including reinstatement, back pay, the payment of any sick-leave
33 ~~days~~ unlawfully withheld, the payment of an additional sum as
34 liquidated damages in the amount of fifty dollars (\$50) to each
35 employee or person whose rights under this article were violated
36 for each day or portion thereof that the violation occurred or
37 continued, plus, if the employer has unlawfully withheld paid sick
38 ~~leave days~~ to an employee, the dollar amount of paid sick-leave
39 ~~days~~ withheld from the employee multiplied by three; or two
40 hundred fifty dollars (\$250), whichever amount is greater; and

1 reinstatement in employment or injunctive relief; and further shall
2 be awarded reasonable attorney's fees and costs, provided,
3 however, that any person or entity enforcing this article on behalf
4 of the public as provided for under applicable state law shall, upon
5 prevailing, be entitled only to equitable, injunctive, or restitutionary
6 relief, and reasonable attorney's fees and costs.

7 (f) In any administrative or civil action brought under this article,
8 the department or court, as the case may be, shall award interest
9 on all amounts due and unpaid at the rate of interest specified in
10 subdivision (b) of Section 3289 of the Civil Code.

11 (g) The remedies, penalties, and procedures provided under this
12 article are cumulative.

13 249. (a) This article does not limit or affect any laws
14 guaranteeing the privacy of health information, or information
15 related to domestic violence or sexual assault, regarding an
16 employee or employee's family member. That information shall
17 be treated as confidential and shall not be disclosed to any person
18 except to the affected employee, or as required by law.

19 (b) This article shall not be construed to discourage or prohibit
20 an employer from the adoption or retention of a paid sick ~~time~~
21 *days* policy more generous than the one required herein.

22 (c) This article does not lessen the obligation of an employer to
23 comply with a contract, collective bargaining agreement,
24 employment benefit plan, or other agreement providing more
25 generous sick ~~time~~ *days* to an employee than required herein.

26 (d) This article establishes minimum requirements pertaining
27 to paid sick ~~time~~ *days* and does not preempt, limit, or otherwise
28 affect the applicability of any other law, regulation, requirement,
29 policy, or standard that provides for greater accrual or use by
30 employees of sick ~~time~~ *days*, whether paid or unpaid, or that
31 extends other protections to employees.

32 249.5. This article does not apply to an employee covered by
33 a valid collective bargaining agreement if the agreement expressly
34 provides for the wages, hours of work, and working conditions of
35 employees, and expressly provides for paid sick days for those
36 employees, final and binding arbitration of disputes concerning
37 the application of its paid sick ~~leave~~ *days* provisions, premium
38 wage rates for all overtime hours worked, and regular hourly rate
39 of pay of not less than 30 percent more than the state minimum
40 wage rate.

1 249.6. (a) *This article does not apply to an employee in the*
2 *construction industry covered by a valid collective bargaining*
3 *agreement if the agreement expressly provides for the wages, hours*
4 *of work, and working conditions of employees, premium wage*
5 *rates for all overtime hours worked, and regular hourly pay of not*
6 *less than 30 percent more than the state minimum wage rate, and*
7 *the agreement expressly waives the requirements of this article in*
8 *clear and unambiguous terms.*

9 (b) *For purposes of this section, “employee in the construction*
10 *industry” means an employee performing on-site work associated*
11 *with construction, including work involving alteration, demolition,*
12 *building, excavation, renovation, remodeling, maintenance,*
13 *improvement, repair work, and any other work as described by*
14 *Chapter 9 (commencing with Section 7000) of Division 3 of the*
15 *Business and Professions Code, and other similar or related*
16 *occupations or trades.*